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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,392

07/07/2004

Douglas A. Low

5142

29859

7590

06/19/2008

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EXAMINER

WEINSTEIN, LEONARD J

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

06/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/710,392	<b>Applicant(s)</b> LOW, DOUGLAS A.	
	<b>Examiner</b> LEONARD J. WEINSTEIN	<b>Art Unit</b> 3746	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Devon C Kramer/  
Supervisory Patent Examiner, Art Unit 3746

/Leonard J Weinstein/  
Examiner, Art Unit 3746

Continuation of 11. does NOT place the application in condition for allowance because:

1. Applicant's arguments filed April 1, 2008 have been fully considered but they are not persuasive. With regards to the rejections of claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Smull US 6,473,004 in view of Macpherson et al. US 2005/0184879, the applicant argues that with respect to claim 1, the Smull reference fails to teach a means for water detection at the output of a bilge pumping system. With respect to claim 2 the applicant argues that Smull does not combine an on/off signal with a water sensor. With respect to claim 4 the applicant argues that Smull does not teach detector indicating that water is exiting the system. With respect to claim 5, the applicant argues Smull does not teach a system in which if one pump cycle is too long an alarm is triggered. With respect to the combination of Smull and Macpherson the applicant argues that the proposed combination would result in false alarms and alarms during which a bilge is filling up.

2. In response to applicant's arguments, the examiner must address the applicant's remarks directed toward the combination of Smull and Macpherson first. The examiner notes that the applicant has not fully appreciated the combination suggested by the examiner. Macpherson teaches a sensor that is triggered when there is an absence of water (Macpherson - abstract). The examiner has suggested that placing this sensor at the exit of the bilge system of Smull (as it is located on an outlet pipe of Macpherson) would provide a means for detecting when there is no water (a bilge being empty). As such there would be no false alarms generated since the sensor is only triggered when there is no water, not when a pump is turned on or a bilge is being filled. Taking this into account the examiner must disagree with the applicant's argument that the Smull reference fails to teach a means for water detection at the output of a bilge pumping system since Smull alone was not relied upon to teach the claimed limitations.

3. In response to applicant's argument, with respect to claim 2, that Smull does not combine an on/off signal with a water sensor, the examiner disagrees. Smull teaches that a pump is turned on when a user sets a maximum cycle number or a preset maximum time of operation. Although the sensor of Smull is not being used by the examiner to teach a water detection means at an exit of a bilge pumping system, Smull does teach a system that sounds an alarm when a maximum number of pump cycles or the set time for pump cycle operation is exceeded. In order for one of these conditions to be an alarm trigger a high water sensor 15 must not be triggered to send a signal to a control unit (Smull - 12). Thus Smull teaches an alarm being triggered after a pump operates for a period of time and a water detection sensor is not triggered. The examiner has relied on the functionality of the control unit 11 of Smull, and applied it to a combination with including the sensor of Macpherson. The examiner has set forth a combination where Smull is modified to have the sensor of Macpherson at an outlet, and thereby implementing a signal generated by that sensor into the control system of Smull. In combination the newly added sensor would not be triggered if an absence of a water (indicating no flow) was not detected. However if, during the same period of time in which the sensor was not triggered, the pump operated for a number of cycles or a time period that exceeded the user set limits then an alarm would sound. Thus a combination of the references would teach the limitations as claimed in claim 2.

4. In response to applicant's argument, with respect to claim 4, that Smull does not teach detector indicating that water is exiting the system, the examiner disagrees. The examiner notes that Smull was not relied upon to teach a means for detecting an outflow with water detection means. The examiner used Smull to teach a control unit that received a signal every time a condition of the pumping system relating to the presence of water occurred. The examiner relied on Macpherson to teach a sensor that "was always triggered unless a volume of water was present" (page 5 of the office action of 12/21/07). A combination of Smull and Macpherson would provide a sensor on an outlet of a pumping system that was not triggered if a fluid flow was present. Given the broadest reasonable interpretation the lack or absence of a signal could be construed as a continuous indication to the control unit that there is fluid present in an outlet and thus a fluid flow.

5. In response to applicant's argument, with respect to claim 5, that Smull does not teach a system in which if one pump cycle is too long an alarm is triggered, the examiner disagrees. The examiner notes that in the office action of December 21, 2007, lines 49-53 in column 6 where cited as teaching the limitations as claimed. Upon further consideration the examiner realizes that this was not the section of Smull that applied to claim 5 however in lines 53-56 in the same column Smull discloses "Similarly, in the event that any bilge pump operates for a cycle duration time exceeding the maximum preset time, accessory interface 22 is activated to operate one or more of the alarm devices couple thereto." Clearly Smull teaches the limitations that applicant argues are not taught by that reference. .